



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,618	10/23/2001	William T. Evans	385/9-1487US	1047

7590 02/16/2006  
COLEMAN SUDOL SAPONE, P.C.  
714 COLORADO AVENUE  
BRIDGEPORT, CT 06605-1601

EXAMINER
----------

BOSWELL, CHRISTOPHER J

ART UNIT	PAPER NUMBER
----------	--------------

3676

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/045,618	<b>Applicant(s)</b> EVANS ET AL.	
	<b>Examiner</b> Christopher Boswell	<b>Art Unit</b> 3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3676

### DETAILED ACTION

In view of the appeal brief filed on November 14, 2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

A handwritten signature in black ink, appearing to read "Brian Glessner", followed by a long horizontal line extending to the right.

Brian Glessner  
Supervisory Patent Examiner  
Art Unit 3676

Art Unit: 3676

*Claim Objections*

Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 depends from claim 1, where claim 1, line 4 recites the limitation “means for assembling and packaging the gift in a gift package” which is identical to that as claimed in claim 9.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basket Tree Gift Co. ([www.baskettreegiftco.com](http://www.baskettreegiftco.com)), in view of Elson (Four Stores are Ringing in Bridal Registers).

Basket Tree Gift Co. discloses a system for automated delivery of gifts (pages 1-2) having a means for a sender to select an appropriate subset of a group, (the ability to selected products that will be included in a custom basket), to be sent as a gift (pages 11-14), means for inputting recipient and sender data and for storing the data (pages 15-16), means for assembling and packaging the gift in a gift package (pages 2 and 15), means for generating a gift card using the sender and recipient data and for sending the gift package to the recipient (pages 2 and 15-16).

Art Unit: 3676

.), as in claims 1 and 4, 9. However, Basket Tree Gift Co. does not explicitly disclose the group of products being health care products. Elson teaches of the ability to create custom gift baskets that provide means for a user to select a number of different products to be placed within a gift basket (i.e. analgesics; paragraph 11), wherein the different products the user can choose from include health care products (paragraph 15). Applicant's listing of products in the independent claims is considered to be a "Markus Group", and as such, only one of the products need be found to meet the claim. It would have been obvious to one with ordinary skill in the art at the time the invention was made to offer the user to select from a plurality of health care products to be included in a gift basket, as taught by Elson, within the system and method disclosed by Basket Tree Gift Co. in order to contribute to the general health of friends and family, wherein the type of gift being offered is an intended use of the automation system, and thus does not change the structural limitation of the claimed system.

Basket Tree Gift Co. also discloses the ability to generate a thank you acknowledgment using the recipient and sender data for incorporating the thank you acknowledged in the gift package (pages 15-16), as in claims 2 and 5.

Claims 6-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basket Tree Gift Co. and Elson, as applied above, in view of Thinking Of U ([www.thinkingofu.com](http://www.thinkingofu.com)).

Basket Tree Gift Co. and Elson disclose the invention substantially as claimed. Basket Tree Gift Co. discloses that gift baskets are gifts for any occasions, including annual events such as weddings, anniversaries and birthdays. However, Basket Tree Gift Co. and Elson do not

Art Unit: 3676

disclose automatic reminder means for generating periodic reminders, and automatically resending the gift monthly, quarterly, biannually or annually. Thinking Of U teaches of a automated delivery system of gifts that send out an automatic reminder using previously entered profile information (text within the paragraph labeled "Never Forget a Birthday Again") in the same field of endeavor for the purpose of reminding the user of a specific date as chosen by the user. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the automatic reminder service and integrate the ability to send gifts accordingly to this reminder into the automated delivery method of the annual gifts indicated by Basket Tree Gift Co. and Elson in order to remind the user of specific dates, i.e. birthdays, renewal deadlines, specified by previously inputted profile information, as taught by Thinking Of U.

### ***Response to Arguments***

Applicant's arguments, see the appeal brief, filed November 14, 2005, with respect to the rejection(s) of claim(s) 1, 2, and 4-12 under 35 U.S.C 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Basket Tree Gift Co.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

Art Unit: 3676

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB CB  
February 2, 2006

A handwritten signature in black ink, appearing to read "Brian Glessner", followed by a long horizontal line extending to the right.

**BRIAN E. GLESSNER**  
**SUPERVISORY PATENT EXAMINER**